

REMARKS

Acknowledgement of Applicant's claim for priority under 35 U.S.C. 119 as well as receipt of the priority document, both filed April 20, 2004, is respectfully requested.

The rejection of claim 8 under 35 U.S.C. 112, second paragraph, because there is no antecedent basis for "co-carrier" in claim 7, is respectfully traversed. Claim 7 is dependent on claim 6 which is ultimately dependent on claim 1. Both claim 6 and claim 1 provide antecedent basis for "co-carrier".

The rejection of claims 1-22 under 35 U.S.C. 103 over Patel '363 is respectfully traversed. This reference relates to solid carriers for pharmaceutical active ingredients in which "the problems of leakage and other disadvantages of liquid formulations are not present" (column 1, lines 63-64). The claims of the present application, in contrast, are directed into a homogeneous solution which, upon exposure to water or gastrointestinal fluids, forms an emulsion having a particle size of less than 5 microns. There must be some reason that it would be obvious to convert a solid composition into a liquid for this rejection to be valid yet no proposed motivation is advanced nor is any apparent. Moreover, the claimed composition in this application contains a combination of 4 specific ingredients. While generic or specific embodiments of each ingredient considered individually may be present in the Patel reference, there is no teaching or suggestion of making the appropriate selections which would bring the composition within the scope of the instant claims, even disregarding the difference between a solid and a solution.

The reference clearly does not teach or suggest the claimed invention and withdrawal of the rejection is respectfully solicited.

It is believed this application is now in condition to be allowed and the early issuance of a Notice of Allowance is respectfully requested.

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Respectfully submitted,

By 

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